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*The Election of Senators.* By GEORGE H. HAYNES, Ph.D. (New York: Henry Holt and Company. 1906. Pp. 295.)

Mr. Haynes has written an interesting book which is intended to advocate the advisability of a change in the method of electing senators, for this purpose is clearly indicated in the last chapter. This is an old story, old at least for us, dating back to the Constitutional Convention of 1787. The importance of the problem is emphasized, or accentuated, now, because of a generally admitted deterioration of the Senate, and in this paper, only the ills of the Senate can be discussed. There is a natural inclination to recommend, for a cure of the evil, a new method of electing senators. Whether or not the remedy would be effective is a serious question. Americans seem to believe in legislative medicine. Sometimes it is an economic, sometimes a political evil, that, it is thought, may be cured by a statute, or a brand-new set of statutes, fresh from the purifying fire of a legislative furnace. It is still doubtful, however, after many applications of patent nostrums, whether laws on the statute book work all the miracles that have been expected of them. Perhaps it is so with new methods, or systems, that have been adopted from time to time, especially for the administration of municipalities, and it may be, that the mere change in the method of choosing senators will not also change the character of the body, or make it a more easily tolerated branch of the national legislature. How are we to try to change it? We certainly could not adopt Hamilton's plan, and substitute a college of electors for the State legislatures, nor would we make land ownership a condition precedent to the right to vote for senators. Of recent years, we have become so obsessed by a conviction that property is injurious to its possessors and to the community, that we do not at all incline to Hamilton's, or to speak more accurately, to eighteenth century notions about wealth. Shall we then adopt James Wilson's theory that senators should be elected directly by the people? Mr. Haynes believes that both the Senate and the State legislatures would be improved if senators were elected by the direct vote of the people instead of by the State legislatures.

In support of his proposition, he has pointed out in a most painstaking way some of the more obvious or aggressive evils of the present system. What these evils are may be briefly mentioned. In the first place, we have the many deadlocks which have deprived some

of the States of their proper representation in the Senate, especially since the enactment by Congress of the law providing for the manner and the time for electing senators.

That this law is responsible for the weakness and sinfulness of State legislatures is doubtful. There are much deeper causes. But it is true that State legislatures have failed to elect when they should have done so, while, in other instances, after many ballots, unexpected men have been chosen to the Senate. It is also true, although Mr. Haynes does not clearly and strongly make a point of it, that most, if not all, of these accidents are not men of the first, or even of the second, rank. It does not follow, however, in every instance that the failure to elect has injured the State or the Senate, or the country. In Delaware, for example, there were 113 ballots and no election in 1899; in 1901, two vacancies existed and forty-six ballots were taken in an attempt to fill each vacancy. In both instances, no choice was made. The country was fortunate in the democratic majority of one in the State Senate in 1899, and in the like republican majority in 1901, and in the small republican majorities (10 and 6) on joint ballot. In 1898, the republican popular majority was 2738; and in 1900, it was 3613. It is perfectly fair to assume that if we then had had popular election of senators, Addicks would have been chosen by the popular vote. This, however, is a mere suggestion that popular election may fail to be a panacea. It is undoubtedly true, that Mr. Haynes has mentioned a real evil, and one that has been felt in many States. In the table which he calls *Record of Deadlocks*, he gives his readers fourteen failures to elect since 1890, affecting the representation of ten States. Of the fourteen deadlocks, five occurred in Delaware. One of the failures to elect was in Pennsylvania in 1899. This, at the time, Quay being the victim, was considered as a triumph of virtue over the historic impulses of the Pennsylvania legislature. It is possibly, nay probably, true in this case, as in that of Delaware, that the evil would have triumphed if popular election of senators had been the rule. On the other hand, it is true that W. A. Clark might have failed in Montana in 1899, if his agents had been compelled to deal with an electorate larger than the State legislature. Still again, it would be difficult to show that any man of character and ability, who would have been recognized by his State and by the country as a proper person to sit in the Senate, was defeated by reason of the prevailing system; whether we would presumably have had a better

senator if we had not been condemned to election by the State legislature.

This raises the essential question: Can we, by changing the method of election produce good results from evil conditions? In Mr. Haynes' recorded list, which seems to be unduly expanded by giving the elections in which many—sometimes not so many—ballots have been taken, there are, let us presume to say, three bad figures, most of the others being of little consequence. These three are, Addicks of Delaware, Quay of Pennsylvania, and Clark of Montana. In each State, the majority of the party to which the senator or candidate belonged was as follows: Delaware, 2738; Pennsylvania, 118,006; Montana, about 11,000. I have given the popular majority obtained by the successful party in the election next preceding the election of the legislature which balloted for senator. It must be recognized that, in each instance, the man who was his party's candidate for senator before the legislature would have been his party's candidate for senator before the people, and with the possible exception of Clark, he would have been elected. In other words, the trouble lies back of the legislature, and it is of a kind that will result in sending bad men to the United States Senate, precisely as it puts bad men in the executive chairs at the State capitals. The man who is chosen senator is the candidate of the boss, or he is the boss himself. Mr. Quay and Mr. Hanna were bosses. Mr. Clark was perhaps not the boss before he desired to be elected senator, but he became one by the employment of the decided advantage which he possessed over every competitor. Addicks was the boss, and so of others; but every Platt must have a Depew, just as every Quay must have a Penrose. It is true that bribery is supposed to be employed and there is much evidence of the truth of the charge. It is also true in the purchase and sale of senatorships that there is perhaps more direct dealing with the members of the legislature than in the ordinary traffic in legislation. It has been said by the buyers in the shambles that the modern system has an advantage over the former because it is simpler. The dealing is confined to one person, who disposes of the votes of his law making slaves for so much. Whatever part of the price they receive is from him and not from the purchaser. In the sale of senatorships the rule seems to be different. The root of the matter is, that senators are not chosen by the legislature after careful consideration and deliberation. Neither would candidates be nominated by a convention in the sane

and intelligent way which we are prone to picture to ourselves whenever we think of the working of our chosen reform. The boss, or money, under present conditions, will rule in the one as in the other. Mr. Haynes seems to put much faith in the direct primary, but it is doubtful if that system of selecting candidates embodies the virtues that have been predicted of it. At any rate, it has not yet established its place in the *Materia Medica* of political reform, as a cure or all the evils of the caucus and the convention. Indeed, we are quite as well within the bounds of reason—to our thinking, the theory is very much more surely settled—if we assert that nominations are not likely to be improved until the law forbids anything like official participation by party organizations in the selection of candidates.

There is nothing in existing political or party practice in this country to prove that a change of the system of electing senators will improve the Senate. There was a time, and that not long ago, when it might be said that there were men in the Senate who could not have been elected governors of their States. If we run over the names of the present governors and compare them with the senators from the same States, we shall not be able to say that this is true today. We once thought that New York would not elect Mr. Platt to be governor; but it has elected Mr. Odell, long Mr. Platt's associate in the leadership of the party in New York. On the other hand, it is probably true that Mr. Roosevelt could not have been elected senator by the State legislature. Nor could Mr. Hughes have been. It is true that popular opinion is often effective in compelling good nominations by conventions; but this is true only when the party managers believe that public opinion in favor of some man is so strongly aroused that a failure to make him the party's candidate will probably result in the party's defeat at the polls. But a good deal is required to excite the public opinion to the contentious degree at which the boss melts, or to create an excitement that is so intense as to produce a mental or emotional fever, or an exposure of public crime and vice so shameful as to incite the wrath of the people and keep it alive until election day. The occasions on which public indignation will compel the nomination of good men for senators will be as rare as they have been in forcing the nomination of good men for governors.

There is no doubt that Mr. Haynes is justified in saying that the present system interferes with State business. It is, however, a

question whether it follows that State legislatures would take advantage of the opportunity offered them to attend to "their normal work," that is, if there is involved in the theory of "normal work" the requirement that it shall be honorable and intelligent. If the modern legislator was not selling privileges, or demanding money to refrain from attacks upon vested rights, as well as disposing of United States senatorships, all at the dictation of the bosses, he might be expected, perhaps, to perform the work of the State if he were relieved of the single duty of choosing a senator. Moreover is there any legitimate hunger for more State legislation than we have?

It ought to be recognized that in dealing with this subject we are not dealing with it as a whole, or as an original proposition. Mr. Haynes carefully and fairly gives the arguments on both sides of the question, but he comes to the conclusion that the weight of argument favors the popular election of senators. This is the concluding sentence of his book: "Never before has the opinion been so widespread that the Senate is sadly in need of mending, that the mending will never be done by the Senate itself, nor by the State legislatures, but that it can only be accomplished when the people, in self-reliant, manly fashion help to mend it by taking the election of senators into their own hands."

The precise meaning of this sentence does not appear. How may the people properly elect senators, or take into their own hands from the legislature the power to elect, except by an orderly and legal amendment of the Constitution? If a riot, or a revolution, or an appeal to the "higher" law is intended, it is evident that lawlessness is contagious. But is there any self-reliant, manly fashion that does not imply obedience to the law?

However this may be, it is clear that Mr. Haynes is dealing with certain evils of the Senate, all summed up in the word "deterioration," which, in his opinion, puts the Senate in "need of mending." Mr. Haynes is justified in reaching this conclusion, and we are justified in confining ourselves to the evil, and their proposed remedies. He has included, however, among his evidence of deterioration some attributes, or characteristics, of senators which do not serve to strengthen his argument: the ages of the senators, their occupations, their former legislative experience, and their wealth. All of these things are interesting, and Mr. Haynes has gathered some illuminating statistics regarding them. Some of his information, however, especially that which concerns the rich, or supposedly rich, senators attributing their

success mainly or largely to their wealth, has the defect of being hearsay, and, probably, if the truth were known, much of it is gossip.

There are many better indications of the deterioration of the Senate than Mr. Haynes has given us. There are, for example: some of the recent legislation of the Senate; the increase of appropriations; the character of the debates; the trading off of a force bill for tariff legislation; the bargains between senators touching private legislation; the atmosphere of speculation in which some senators dwell, using as they do, their legislative powers for personal gain; the growth of that evil rule of senatorial courtesy which enables legislators to use constitutional checks as an unconstitutional club. These furnish the best evidence of the deterioration of the Senate.

So long as there exist the legal opportunities which senators now make use of for their own advantage, so long will politicians, of the kind which the people permit to manage their public affairs, take advantage of those opportunities. The character of senators cannot be changed by changing the system of their election. The Senate controls all appointments not protected by the civil service law and the rules made to carry it into effect, and thus controlling the patronage of the government, by their power of confirmation, a power which has been enormously increased by their vicious rule of courtesy, they control the party and its machinery. The machinery of the party, in its turn, worked by the boss, who may be the senator himself, or at least the ally of the senator, provides the candidates. In ordinary times, in most instances, and in most States, the candidates for governor of the two party machines are the only persons for whom the people may vote, as, in the case of senators, they are the only persons for whom the legislature may vote. There is, indeed, another side to this question. There is a growing unrest among the people, and a growing independence, but while all this gives us hope, it affords us no data for the determination of such a question as that which Mr. Haynes discusses.

The concluding paragraph of Mr. Haynes's preface expresses the truth with a clearness that is absent from the concluding sentence of his book. It is as follows:

"This book will fall far short of its purpose if it fails to carry the writer's firm conviction that electoral forms and methods are of slight import, except as they affect the spirit of the choice, and that neither the continuance of the present system, nor the resort to

popular election, can long secure the Senate which the best interests of the country demand, unless back of the method there be found the vigilance, intelligence, and the conscience of the individual voter."

HENRY LOOMIS NELSON.

*The Arbiter in Council.* (New York: The Macmillan Company. 1906. Pp. vi, 567.)

This volume, as the title suggests, is a treatise on peace and war, and is published anonymously. The form is that of a symposium. The characters in council are fictitious, but, nevertheless, representative, including men from different professions. The arbiter, who presides at the meetings, is a liberal after the order of Cobden and Bright. The other disputants are: a lawyer, who is described as a barrister "with a conscience," an ecclesiastic with a "liturgical instinct," a captain of the intelligence department of the war office, a retired admiral, a stock broker, a Cambridge historian and pupil of Lord Acton, and the editor, a young economist and newspaper reporter.

Most of the participants have been requested to prepare papers on certain assigned topics, the reading of which is interrupted by questions from the listeners. The various topics discussed are: The causes and consequences of war, modern warfare, private war and duelling, cruelty, the federation of the world, arbitration, the political economy of war, and Christianity and war. These discussions take place every day for a week, the last topic being taken up on Sunday. The author probably presents no new material, but he has succeeded in putting into very readable form what has been said by others. The work is also valuable in that it gives in one volume a summary of the best arguments on the subjects considered. It is in fact a storehouse of material on these subjects from the earliest times to the present. Scarcely a topic is left untouched, from the doctrine and practice of the early Christians in regard to military service to the consideration of what an arbitration treaty should include. The work is of such a character that it is impossible to make extracts which would give any idea of the book as a whole. The writer shows varied scholarship and is evidently familiar with the authorities on the subjects discussed.

HORACE E. FLACK.